

ORIGINAL



0000148161

BEFORE THE ARIZONA CORPORATION COMMISSION

RECEIVED

DOCKETED

COMMISSIONERS

2013 SEP 17 P 3:48

SEP 17 2013

BOB STUMP - Chairman
GARY PIERCE
BRENDA BURNS
BOB BURNS
SUSAN BITTER SMITH

AZ CORP COMMISSION
DOCKET CONTROL

DOCKETED BY	112
-------------	-----

In the matter of:

DOCKET NO. S-20837A-12-0061

OUT OF THE BLUE PROCESSORS, LLC,
an Arizona limited liability company, d/b/a
Out of the Blue Processors II, LLC; and

MARK STEINER (CRD #1834102) and
SHELLY STEINER, husband and wife,

Respondents.

ELEVENTH
PROCEDURAL ORDER
(Schedules Hearing)

BY THE COMMISSION:

On February 22, 2012, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Temporary Order to Cease and Desist ("T.O.") and a Notice of Opportunity for Hearing ("Notice") against Out of the Blue Processors, LLC ("OBP"), an Arizona limited liability company dba Out of the Blue Processors II, LLC, and Mark Steiner and Shelly Steiner, husband and wife, (collectively "Respondents"), in which the Division alleged multiple violations of the Arizona Securities Act ("Act") in connection with the offer and sale of securities in the form of certificates of interest or investment contracts.

Respondent spouse, Shelly Steiner, was joined in the action for the purpose of determining the liability of the marital community pursuant to A.R.S. §44-2031(C).

The Respondents were duly served with copies of the T.O. and Notice.

On March 14, 2012, Respondents filed a request for hearing in this matter.

On March 15, 2012, by Procedural Order, a pre-hearing conference was scheduled on April 12, 2012.

On April 10, 2012, Respondents' counsel filed a Motion to Continue the pre-hearing conference because his client was out of the country on business and was not expected to return until the end of the month. It was indicated that Division did not oppose the motion.

1 On April 11, 2012, by Procedural Order, the pre-hearing conference was continued to May
2 16, 2012.

3 On May 16, 2012, the Division and Respondents appeared with counsel. Counsel for the
4 Division indicated that the parties were discussing the issues raised by the T.O. and Notice, and
5 requested that a status conference be scheduled in approximately 60 days. Respondents agreed with
6 the Division's request to schedule a status conference. Subsequently, by Procedural Order, a status
7 conference was scheduled on July 19, 2012.

8 On July 19, 2012, the Division and Respondents appeared through counsel at the status
9 conference. Counsel for the Division indicated that the parties are continuing to discuss the issues
10 raised by the T.O. and Notice, and are attempting to reach a settlement in the proceeding. In the
11 interim, the Division requested that another status conference be scheduled in approximately 60 days.
12 Respondents agreed with the Division's request to schedule a status conference.

13 On July 20, 2012, by Procedural Order, a status conference was scheduled on October 4, 2012.

14 On October 1, 2012, Respondents filed a Motion to Vacate the status conference scheduled on
15 October 4, 2012, until after October 24, 2012, because Respondent, Mark Steiner, has been out of the
16 country and unable to meet with counsel. Additionally, a meeting has been scheduled between the
17 parties. The Division has no objections to this request.

18 On October 4, 2012, by Procedural Order, the status conference was continued to November
19 6, 2012.

20 On November 1, 2012, Respondents filed a Motion to Vacate the status conference scheduled
21 on November 6, 2012, until after November 25, 2012, due to a number of conflicts on Respondents'
22 counsel's schedule, which were beyond his control. Among the conflicts was the time required to
23 respond to a subpoena from the Division for copies of his clients' records. The Division had no
24 objections to Respondents' Motion to Vacate.

25 On November 6, 2012, by Procedural Order, the status conference was continued to
26 November 20, 2012.

27 On November 16, 2012, Respondents filed another Motion to Vacate the status conference
28 scheduled on November 20, 2012, citing additional conflicts and requiring more time to comply with

1 the Division's subpoena. The Division has no objections to this request.

2 On November 19, 2012, by Procedural Order, the status conference was continued to January
3 10, 2013.

4 On January 3, 2013, Respondents filed another Motion to Vacate the status conference
5 scheduled on January 10, 2013, citing more conflicts and scheduling problems.

6 On January 8, 2013, the Division filed a response arguing that the Respondents' request
7 should be denied.

8 On January 9, 2013, by Procedural Order, the status conference was continued to January 29, 2013.

9 On January 29, 2013, at the status conference, the Division and Respondents appeared with
10 counsel and agreed that a hearing be scheduled to commence on July 8, 2013. Subsequently, counsel
11 for the Division requested that a teleconference be scheduled to reschedule the proceeding due to a
12 conflict with his trial schedule.

13 On January 31, 2013, at the teleconference, the Division and Respondents appeared through
14 counsel to resolve the scheduling conflict with respect to the hearing. After a brief discussion, the
15 parties agreed that the proceeding be scheduled to commence on September 16, 2013, if they were
16 unable to resolve the issues raised by the T.O. and Notice.

17 On February 4, 2013, by Procedural Order, the hearing was continued to September 16, 2013.

18 On August 9, 2013, the Division filed a Motion for Leave to Amend Notice, and
19 contemporaneously therewith the parties also filed a Joint Motion for Continuance for the deadline to
20 exchange copies of Witness Lists and Exhibits, of the hearing and a proposal that a status conference
21 be held on September 16, 2013, in place of the hearing. Respondents did not file any objections to
22 the Division's Motion for Leave to Amend Notice.

23 On August 21, 2013, by Procedural Order, the Motion for Leave to Amend Notice was
24 granted as was the Joint Motion for Continuance of the hearing.

25 On September 6, 2013, the Division filed the Amended Notice.

26 On September 16, 2013, at the status conference, the Division and Respondents appeared with
27 counsel. Respondents also filed a request for hearing with respect to the Amended Notice.
28

1 Subsequently, the parties agreed that a hearing to last approximately one week should be scheduled to
2 commence on April 28, 2014, with documents to be exchanged approximately one month earlier.

3 Accordingly, a hearing should be scheduled.

4 IT IS THEREFORE ORDERED that a **hearing** shall be held on **April 28, 2014, at 10:00**
5 **a.m.**, at the Commission's offices, 1200 West Washington Street, Hearing Room No. 1, Phoenix,
6 Arizona.

7 IT IS FURTHER ORDERED that the parties shall reserve **April 29 and 30, and May 1 and**
8 **2, 2014**, for additional days of hearing, if necessary.

9 IT IS FURTHER ORDERED that the parties shall exchange copies of their Witness Lists and
10 copies of their Exhibits, with courtesy copies provided to the presiding Administrative Law Judge by
11 **March 28, 2014.**

12 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
13 Communications) is in effect and shall remain in effect until the Commission's Decision in this
14 matter is final and non-appealable.

15 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
16 of the Arizona Supreme Court and A.R.S. § 40-243 with respect to the practice of law and admission
17 *pro hac vice*.

18 IT IS FURTHER ORDERED that withdrawal or representation must be made in compliance
19 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
20 Rules of the Arizona Supreme Court). Representation before the Commission includes appearances
21 at all hearings and procedural conferences, as well as all Open Meetings for which the matter is
22 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the
23 Administrative Law Judge or the Commission.

24 ...

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that the Presiding Administrative Law Judge may rescind, alter,
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
3 ruling at hearing.

4 DATED this 17th day of September, 2013.


5
6
7
8 
MARC E. STERN
ADMINISTRATIVE LAW JUDGE

9 Copies of the foregoing mailed/delivered
10 this 17th day of September, 2013 to:

11 Arthur P. Allsworth
12 7501 North 16th Street, Suite 200
Phoenix, AZ 85020-4677
Attorney for Respondents

13 Matt Neubert, Director
14 Securities Division
ARIZONA CORPORATION COMMISSION
15 1300 West Washington Street
Phoenix, AZ 85007

16 ARIZONA REPORTING SERVICE, INC.
2200 North Central Avenue, Suite 502
Phoenix, AZ 85004-1481

17
18 By: 
19 Tammy Velarde
Assistant to Marc E. Stern
20
21
22
23
24
25
26
27
28